United Nations CCPR/C/LKA/Q/5

International Covenant on Civil and Political Rights

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Human Rights Committee

List of issues in relation to the fifth periodic report of Sri Lanka*

Constitutional and legal framework within which the Covenant is implemented, right to an effective remedy (art. 2)

1. Please provide examples of the application of the Covenant by domestic courts and information on the availability of remedies for individuals claiming a violation of the rights contained in the Covenant. Please indicate what procedures are in place for the implementation of the Committee's Views under the Optional Protocol, and provide information on measures taken to ensure full compliance with the Committee's Views adopted in 14 communications, including Nos. 1862/2009, 1432/2005 and 1406/2005.

2. Please respond to concerns raised by several United Nations human rights mechanisms about the eighteenth constitutional amendment, made in 2010, which eliminated the Constitutional Council and empowered the President to make direct appointments of the chairpersons and members of a number of key oversight bodies. Furthermore, please provide information on measures taken to strengthen the independence and the role of the Human Rights Commission of Sri Lanka in compliance with the Paris Principles (CCPR/C/LKA/5, paras. 242 to 248), and to ensure that its decisions and recommendations are fully implemented by State authorities.

3. With reference to paragraphs 42 to 53 of the State party's periodic report (CCPR/C/LKA/5), regarding the rehabilitation and reintegration of former combatants, including child soldiers, please outline further efforts that have been made in order to respond to their difficulties including their diminished mobility due to ad hoc surveillance and monitoring by the security forces. What steps have been taken by the State party to respond to the concerns that released former combatants face discrimination and difficulties in finding jobs and in accessing other economic opportunities, and that female ex-combatants even face a higher risk of rape and violence? Please provide information about the implementation of the National Policy on Reintegration of Ex-Combatants into Civilian Life and other relevant policy documents.

* Adopted by the Committee at its 110th session (10–28 March 2014).

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Non-discrimination (arts. 2, 3 and 26)

4. Please provide detailed information on measures taken:

(a) To eradicate the persistent and deep-rooted stereotypes regarding the roles, responsibilities and identity of women and men in all spheres of life and to ensure effective application of relevant legislative and administrative measures, including the Women's Charter (CCPR/C/LKA/5, paras. 368 and 369). Please indicate steps taken to enhance the participation and representation of women in political and public life and to ensure women's participation in the post-conflict, reconstruction and peace-building process.

(b) To eradicate those customs and practices which are harmful and prejudicial to women, including polygamy and underage marriage.

5. Please indicate the measures taken to protect persons from stigmatization and discrimination on the basis of their sexual orientation and gender identity, and indicate whether they are protected by the constitutional provisions on non-discrimination (CCPR/C/LKA/5, para. 339).

Violence against women, including domestic violence (arts. 2, 3, 6, 7 and 26)

6. Please respond to concerns that despite the adoption of the Prevention of Domestic Violence Act, violence against women, including sexual and domestic violence, and impunity for such violence, remains a widespread problem that is exacerbated by significant delays in the processing of cases and barriers to bringing perpetrators of marital rape to justice. Is the State party considering criminalizing marital rape regardless of judicial acknowledgement of separation?

7. Please provide information about cases of rape and other acts of sexual violence that occurred during and after the conflict, in particular in military-controlled camps.

Counter-terrorism measures (arts. 2, 7, 9, 10 and 14)

8. According to the State party's periodic report (paras. 64–67), following the lifting of the emergency regulations in August 2011, some of the provisions remained within the framework of the Prevention of Terrorism Act. Please clarify whether all provisions in the Prevention of Terrorism Act are compatible with the Covenant, including the legal safeguards, for persons suspected of or charged with a terrorist or related crime. Also, please elaborate on the measures taken to ensure a comprehensive review of all security-related legislation and on the outcomes of reviews of cases of suspects detained under the Prevention of Terrorism Act (CCPR/C/LKA/5, paras. 265–267). Please include statistics on the prosecution and the release of detainees and the issuance of the writ of habeas corpus. Please respond to reports that the remedy of habeas corpus in the State party is ineffective, mainly due to long delays in the disposal of complaints, a lack of cooperation from security agencies, and unwillingness by the judiciary to exercise its duty to protect the liberty of the individual.

Right to life (art. 6)

9. Please respond to consistent and well-documented reports that unlawful use of force and violations of the right to life by State agents or by paramilitary groups directly under the control of the armed forces, including extrajudicial killings, suspicious deaths in

custody and enforced disappearances, remain widespread and unpunished. Please indicate the measures taken to prevent such cases, to promptly and impartially investigate them, to prosecute and punish the perpetrators, and to provide adequate remedies to victims or their relatives. Please provide data on the number of deaths in detention, and their causes, and on the number of police and prison officials who have been disciplined or prosecuted for such cases, including the cases of deaths during the riots at Vavuniya prison and Welikada prison in 2012. Is the State party considering establishing enforced disappearance as an offence in domestic law?

10. Please provide an update on whether the State party is considering introducing legislation containing additional exceptions to the prohibition on abortion.

Accountability (arts. 2, 6, 7, 9, 10 and 14)

11. Please report on concrete measures taken to effectively address impunity for human rights violations committed by both State and non-State actors, in particular by ensuring independent and impartial investigations and applying the rule of law and due process in prosecuting perpetrators. What measures have been taken to ensure the right of victims of human rights violations to timely, prompt and effective remedies? Does the State party envisage accepting international assistance to resolve outstanding cases of serious human rights violations? How does the State party plan to strengthen the cooperation and coordination between different national and international authorities in investigating allegations of human rights violations during the conflict? Please provide an update on the progress made by the Sri Lankan Army's Court of Inquiry in investigating allegations of civilian casualties, including the allegations reported upon by a Channel 4 documentary.

12. Please provide an update on the progress made in implementing the recommendations of the Secretary-General's Panel of Experts on Accountability in Sri Lanka. Please elaborate on the measures taken to ensure the investigation of the allegations reported by the Panel, on the implementation of the measures recommended by the Panel, and on the prosecution of all cases of war crimes and crimes against humanity in a non-discriminatory manner.

13. Please provide an update on the progress made in implementing the recommendations of the Lessons Learnt and Reconciliation Commission. Please clarify the State party's position regarding a number of significant recommendations which were not incorporated in the 2012 National Plan of Action to implement the recommendations of the Lessons Learnt and Reconciliation Commission (CCPR/C/LKA/5, para. 76) or in the 2011–2016 National Plan of Action for the Protection and Promotion of Human Rights.

Prohibition of torture and cruel, inhuman or degrading treatment, liberty and security of person, fair trial and independence of judiciary (arts. 7, 9, 10 and 14)

14. Please respond to allegations that torture and ill-treatment of detainees remain common and widespread, especially at the moment of apprehension and during pre-trial detention, in order to extract confessions, mainly due to legal and procedural shortcomings and the lack of political will on the part of the authorities. Please specify the measures taken to (a) expand the definition of torture in the domestic law to cover all acts of torture, including those causing severe suffering; (b) ensure prompt and impartial investigations into all complaints of torture or ill-treatment, by an independent body not under the authority of the police; (c) ensure that evidence obtained under torture is inadmissible and is excluded in court; (d) expedite criminal procedures relating to torture cases by

establishing special mechanisms dealing with torture and ill-treatment by public officials; and (e) investigate and disclose the existence of secret detention centres. Please provide data on investigations carried out and on prosecutions, convictions, and the types of penalties imposed.

15. Please describe the measures taken to address arbitrary and unlawful detention by public officials, and to ensure that those responsible for such cases are duly sanctioned and victims are adequately remedied. What steps have been taken (a) to guarantee, in practice, the rights of persons deprived of their liberty to notify their families about their detention, and to have access to a lawyer and a doctor starting from the moment of their arrest; and (b) to establish a central register of all persons in official custody and publish a list of all detainees and places of detention?

16. Please provide an update on the measures taken (a) to address overcrowding in prisons and poor detention conditions; (b) to limit the number and duration of pre-trial detentions; and (c) to segregate incarcerated juveniles from adults and remand detainees from convicted felons. Has a system been established for regular and independent monitoring of places of detention? Please indicate progress made regarding the recurrent delays in the justice system and the reform of prison legislation.

17. Please report on the measures taken to strengthen the independence of the judiciary from any outside interference and to ensure the implementation of court orders. Please respond to concerns about the impeachment of the Chief Justice following a series of attacks and acts of intimidation against judges and judicial officers.

Protection of rights of children (arts. 2, 7, 24 and 26)

18. Please indicate whether the State party is considering raising the minimum age of criminal responsibility, currently set at 8 years, to an internationally acceptable level. Please report on the measures taken to strengthen the juvenile justice system and to ensure that detention of juveniles is used as a last resort.

19. Please describe the measures taken (a) to eradicate corporal punishment in all settings in the State party, including in family settings, and to raise awareness about the harmful effects of corporal punishment, and the use of non-violent forms of discipline; and (b) to combat child abuse, including sexual abuse and exploitation in family, school and work settings.

20. Please explain what measures the State party is taking to ensure that children with disabilities, including autism and sensory impairment, are not denied a proper education.

Elimination of slavery and servitude (art. 8)

21. Please indicate the measures taken to prevent and combat trafficking in persons for the purposes of sexual exploitation and forced labour, to prosecute and punish perpetrators, and to provide victims with effective remedies, including compensation and rehabilitation. Please provide updated information on steps taken to train the judiciary to adequately address cases of trafficking, and to provide training for officials and professionals involved in combatting trafficking.

Freedom of movement and right to privacy (arts. 12 and 17)

22. In light of the State party's efforts to resettle a large number of the persons who had been internally displaced as a result of the conflict (CCPR/C/LKA/5, paras. 30–35), please

indicate what further measures have been taken to ensure durable solutions on a comprehensive basis for all internally displaced persons and for those who have returned to their areas of origin, including the return of their land and property.

Freedom of expression, freedom of assembly and freedom of association (arts. 19, 21 and 22)

23. Please respond to reports of (a) intimidation and harassment, including physical attacks, death threats, and politically motivated charges, against journalists and human rights defenders, by State officials; and (b) the State party's failure to bring perpetrators to justice. Please provide an update on the outcome of the investigation into the outstanding cases of attacks against human rights defenders and media personnel. Please describe the measures taken to protect individuals in the exercise of their freedom of expression and to prosecute the perpetrators of such attacks.

24. Please comment on restrictions imposed on the freedom of expression and freedom of peaceful assembly of communities in the North. Please provide information on any measures through which the State party controls or monitors access to websites containing news and other political content.

Right to take part in the conduct of public affairs (art. 25)

25. Please respond to allegations that the legal proceedings against presidential candidate General Sarath Fonseka were politically motivated. Also, please respond to concerns about the utilization of the 2011 Revival of Underperforming Enterprises and Underutilized Assets Act to seize the property of a prominent opposition politician.

Rights of persons belonging to minorities (arts. 18, 26 and 27)

26. Please indicate the measures taken to eliminate discrimination against ethnic, linguistic and religious minorities, including Muslim and Tamil communities. Please provide information on (a) cases of schools refusing admission to Protestant children on the grounds of religion; and (b) efforts made to prevent and to punish offences against the free exercise of religion in line with the provisions of the Covenant. In particular, please indicate the outcome of the State party's action regarding allegations of increasing pressure and harassment by the authorities against certain religious groups, including attacks on the places of worship of Hindu, Muslim, Evangelical Christian and Jehovah's Witness communities.